



STATE OF MISSISSIPPI
OFFICE OF THE GOVERNOR
DIVISION OF MEDICAID
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EXECUTIVE DIRECTOR

MEDICAID PROGRAM ACTION
Eligibility Transmittal

DATE: March 1, 2011

PROGRAM IDENTIFIER: 435.030111145
Medicaid Regional Offices

SUBJECT: Revised Policy for Medicaid Eligibility Policy and Procedures Manual

This transmittal issues revised policy for the Medicaid Eligibility Policy and Procedures Manual. In September 2008, staff was informed this generic manual would be compiled over time by adding additional sections as policy is re-issued or revised. This issuance completes the revision of Section F, Resources. New material to begin Chapter 200, Income, and the Appendix is attached. Also attached are replacements to some existing pages.

FILING INSTRUCTIONS

• **VOLUME III**

The entire table of contents for Section F needs to be cross-referenced with Chapter 300 of the Medicaid Eligibility Policy and Procedures Manual. Remove the following pages in Section F:

- Pages 6140 through 6141;
- Pages 6200 through 6208;
- Pages 6280 through 6292;
- Pages 6350 through 6353;
- Pages 6360 through 6364;
- Pages 6370 through 6376;
- Page 6400
- Pages 6410 through 6411;
- Pages 6420 through 6423;
- Pages 6430 through 6431; and
- Page 6440.

- **VOLUME III**

Also note the following pages in Volume III as obsolete and cross reference each page with applicable section of the Eligibility Policy and Procedures Manual:

- Page 5123, Section E, Income, Income from Individual Interests in Indian Trust or Restricted Lands;
- Page 4M of the Appendix, Chart of Need Standards and Resource Limits

- **MEDICAID ELIGIBILITY POLICY AND PROCEDURES MANUAL**

- File new Page i, Table of Contents, Chapter 200, Income, in sequence with existing material;
- Remove Page v in the current Table of Contents, Chapter 300;
- File the attached Table of Contents Pages v - vii in sequence with other pages in Chapter 300;
- File new Page i, Table of Contents, Appendix, at the end of the existing material;
- File attached new Pages 3200 through 3399 in sequence with previously issued manual material in Chapter 300;
- Remove the existing pages, 727, 3016, 3038, 3090-3091, 3313-3315 and 3448, and file the attached replacement pages with Effective Month: March 2011;
- File new Page 2000, Income from Individual Interests in Indian Trust or Restricted Lands, in Chapter 200, behind the Table of Contents;
- File new Page 4M, Chart of Need Standards and Resource Limits, in the Appendix behind the Table of Contents.

If you have questions concerning the material in this transmittal, contact the Bureau of Enrollment.

Robert L. Robinson
Executive Director

RLR: JB: jb

Attachments

cc: All Holders of Medicaid Eligibility Policy and Procedures Manual

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200.01 Income from Individual Interests in Indian Trust or Restricted Lands 2000

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CHART OF NEED STANDARDS AND RESOURCE LIMITS

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303.01 COUNTABLE RESOURCES

Introduction

The resources discussed in the previous section could either be totally excluded in the resource determination or counted, in part or in whole, depending on the type of resource or case circumstances. In this section the treatment and verification of resources which are countable under SSI and liberalized resource policy are discussed.

303.01.01 CASH

Cash is a countable resource and is defined as money on hand that is in the form of coin or currency.

Procedure
<ul style="list-style-type: none">• Accept the client's allegation of cash on hand, regardless of amount – do not ask to see or count cash.• Explain to the individual that cash on hand includes amounts he has on his person or at home.<ul style="list-style-type: none">○ In addition, it includes cash belonging to him which is kept elsewhere, such as in a safety deposit box or by another individual.• Foreign currency or coins are cash to the extent they can be exchanged for U. S. currency

NOTE: Coin collections are not considered cash, even though they are a resource. The value of coin collections is based on a collector's value and determined by knowledgeable source estimate. Refer to Section 302.06.03 for treatment of other personal property.

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303.01.02 CHECKING/SAVINGS ACCOUNTS

Funds maintained in checking and savings accounts are usually payable on demand. When an individual has unrestricted access to an account, all of the funds in the account are considered as a resource to the owner of the account, regardless of who deposited the funds. (Refer to 303.01.02A for a discussion of joint ownership.)

A fiduciary or trustee is authorized to act on behalf of or for the benefit of another person. A fiduciary's right to withdraw funds is the same as the account owner's right to withdraw them.

Types of Checking Accounts

There are different types of checking accounts. NOW (Negotiable Order of Withdrawal) accounts are interest-bearing checking accounts. Super NOW accounts are money market checking accounts with higher rates of interest than NOW accounts. Money Market Deposit Accounts (MMDA) are interest-bearing checking accounts, which allow banks to compete with mutual fund money markets.

Asset Verification System (AVS)

Federal regulations require states to implement an electronic match with financial institutions to verify assets for Medicaid eligibility. Mississippi is a 2010 phase-in state. When implemented, the AVS process will be applicable to aged, blind and disabled coverage groups subject to an asset test, i.e., long term care, HCBS, and other full benefit groups.

At each application and redetermination, a request for information on an individual's financial accounts will be submitted through AVS. The system will search for open and closed accounts (declared or undisclosed), including the 5-year look back period for long term care cases.

More information will be provided prior to implementation. Until that time the instructions provided below for verifying financial accounts are applicable.

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CHECKING/SAVINGS ACCOUNTS (Continued)

Procedure
<p><u>Development of Bank Accounts</u></p> <p>There is a high potential for error in developing bank accounts; therefore, it is important for the specialist to fully investigate all of a client's allegations about bank accounts. Unless eligibility is being denied for another reason, the specialist must search for leads into the possible existence of bank accounts.</p> <p>Skillful questioning may produce leads which can be used to detect undisclosed resources.</p> <p>It is important that the following explanations be made to the applicant or representative:</p> <ul style="list-style-type: none">• Information about all savings accounts, checking accounts or time deposits, which show the client's name or the name of someone whose resources must be deemed to the client, must be furnished, regardless of:<ul style="list-style-type: none">○ The amount on deposit, or○ In what capacity the name of the client or deemor appears on the account. or○ Any special purpose for which the account was established, or○ Whether or not the client considers any of the funds to belong to him. <p><u>Verification of Bank Accounts</u></p> <ul style="list-style-type: none">• Request the client's own records (statements, print-outs, etc.) as verification of activity on the account and to establish account balances.• The DOM-330, Request for Financial Information, can be used to supplement incomplete information or records provided by the client to establish the existence of accounts and verify account activity. <p>NOTE: Do not consider as a resource any amounts counted as income for the same month.</p>

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CHECKING/SAVINGS ACCOUNTS (Continued)

Procedure
<p><u>Treatment of Bank Accounts</u></p> <ul style="list-style-type: none">• Assume the person designated as the owner in the account title owns all the funds in the account. (Refer to 303.02.02A for joint bank accounts.)• Absent evidence to the contrary, assume that the person shown as the owner in the account title has the legal right to withdraw funds and use them for support and maintenance. <p><u>Evidence to the Contrary</u></p> <p>Example: An account is titled "In trust for John Jones and Mary Smith, subject to sole order of John Jones, balance at death of either to belong to survivor". Since John alone has unrestricted access, none of the funds in the account could be considered Mary's resources <u>unless</u> John is her fiduciary or his resources are deemed available to her.</p> <p>Example: An account is titled " George Dahey, restricted Individual Indian Money Account". Mr. Dahy cannot withdraw funds from the account without the authorization of the Bureau of Indian Affairs. Therefore, the account is not his resource.</p>

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CHECKING/SAVINGS ACCOUNTS (Continued)

Procedure
<p>Special Development for Applicants</p> <p>Use the special development procedures below for all applications and any existing cases which have not been developed previously to document additional information on banking activities and possible undisclosed accounts.</p> <p>Step One: Obtain Information About the Applicant's Past and Present Business Activities</p> <p>Ask the applicant about past and present business activities:</p> <ul style="list-style-type: none">• Where does the applicant cash or deposit checks?• Where does the applicant buy money orders?• Where or from whom has the applicant borrowed money in the past five years?• Has the applicant ever owned a home or land? If so, where is it located? Was it sold or given away?• Does the applicant have a special savings account or a Christmas Club?• Does the applicant's name appear on any account which the applicant considers to belong to someone else?• Does the applicant have money set aside money for emergencies? If so, how much? <p>Step Two: Obtain Verification of Accounts</p> <p>If a financial institution is identified through questioning, verify accounts by using the client's records or DOM-330, Request for Financial Information.</p>

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303.01.02C **REBUTTAL OF JOINT CHECKING/SAVINGS ACCOUNTS**

An applicant or recipient may rebut ownership of part or all of the funds in a jointly-held account. The client is responsible for providing verification to support this claim.

Rebuttal Procedures

If an applicant or recipient wishes to rebut the applicable ownership assumption, the client and each joint owner must submit corroborating statements and necessary verification to document the following for the months for which ownership is an issue:

NOTE: If the only other account holder is incompetent or a minor, obtain a corroborating statement from anyone aware of the circumstances surrounding establishment of the account.

- Bank name, account number, names of account holders
- Ownership of the funds, including amounts if partial ownership is claimed
- Reasons for establishing a joint account
- Who has made deposits to and withdrawals from the account
- Verification of the deposits, withdrawals and interest, e.g., pay stub, award letter, cancelled checks, account records, etc.
- How the withdrawals have been spent
- If the client owns none of the funds, evidence showing that he/she can no longer withdraw funds from the account
- If the client owns only a portion of the funds, evidence showing removal of the client's funds from the account or removal of the funds owned by the other account holder(s) and redesignation of the account

Document the determination in the record.

- Any funds that the evidence establishes were owned by the other account holder(s), and that the client can no longer withdraw from the account, were not and are not the client's resources. That is, rebuttal is both retrospective and prospective. However, these funds can be deemed to be available to the client if the account holder to whom the funds belong is a deemor.

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303.01.03 **FUNDS HELD IN ANOTHER INDIVIDUAL'S ACCOUNT**

Count the value of funds deposited or held for an applicant/recipient in an account that does not have the client's name on it if:

- The holder(s) of the account agrees that the funds on deposit, or a portion thereof, belong to the applicant/recipient, and
- The funds are available to the client.

If some or all of the funds are acknowledged as belonging to the client and are available, the account is treated as a countable resource to the extent the funds belong to the client.

Documentation will include written statements from the client and the holder(s) of the account.

NOTE: Entitlement income deposited into an account which is not owned by the client does not alter the fact that the income belongs to the client and is used to determine eligibility and Medicaid Income (if applicable).

In addition, funds belonging to the client (including non-entitlement income) deposited into another person's account and not accessible to the client are subject to a transfer penalty, if applicable. A transfer may exist even if the funds are not acknowledged as belonging to the client when evidence indicates the client's funds are deposited and retained in the account.

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303.01.04 **TIME DEPOSITS**

A time deposit is a contract between an individual and a financial institution whereby the individual agrees to leave funds on deposit for a specified period of time (six months, two years, five years, etc.) and the financial institution agrees to pay interest at a specified rate for that period. Certificates of Deposit and savings certificates are common forms of time deposits.

NOTE: The assumptions regarding ownership of bank accounts, discussed in the previous section, also apply to time deposits.

Early Withdrawal

Withdrawal of a time deposit before the specified period expires incurs a penalty which is usually imposed against the principal. The penalty does not prevent the time deposit from being a resource, but it does reduce its value as a resource.

Treatment
<p>The resource value of a time deposit at any given time is the amount the owner would receive upon withdrawing it at that time, excluding interest paid that month. Generally this is:</p> <ul style="list-style-type: none">• Amount originally deposited• Plus accrued interest for all but the current month and• Minus any penalty for early withdrawal

Early Withdrawal Prohibited

On rare occasions, the terms of a time deposit may prohibit early withdrawal altogether. When early withdrawal is prohibited, handle principal and interest as follows:

Treatment
<p>Principal - If the owner of a time deposit cannot under any circumstances withdraw the principal before it matures, the principal is not a resource. It becomes a resource (not income) on the date it matures and may affect countable resources for the following month.</p> <p>Interest – If the owner has no access to the interest before the deposit matures, accrued interest is also not a resource. Do not count the interest as income in the month the deposit matures, but as a resource the month after maturity.</p>

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303.01.05 **CONSERVATOR ACCOUNTS**

The term “conservatorship account” refers to a financial account in which a person or institution has been appointed by a court to manage and preserve the assets of an individual which are held in the account.

Treatment
<p>Absent evidence to the contrary, the funds are available for the individual’s support and maintenance and are countable as that person’s resource. For verification of the account, refer to the court order establishing it.</p> <p>NOTE: The fact that an individual has to petition the court for withdrawal of funds does not mean the funds may be assumed to be unavailable.</p> <p>The denial of a request for withdrawal of funds by the court does not necessarily mean the funds in the account are unavailable for the individual’s support or maintenance.</p> <p>A history of the petitions for and approvals and denials of funds may reveal the court approves petitions to withdraw funds to provide maintenance and support and only denies non-essential items or that the court’s denial of a request is the exception rather than the rule. In either instance, the funds are considered an available resource.</p>

303.01.06 **PATIENT ACCOUNTS**

A nursing home patient account is a financial account set up by the nursing home for the convenience of the patient. These accounts are similar to a checking and/or savings account. The facility holds funds belonging to the patient for the patient’s use. For Medicaid purposes, a patient account is treated in the same manner as a checking or savings account.

303.01.07 **CHARITABLE FUNDS BANK ACCOUNTS**

Count the value of funds in an account set up to receive and hold charitable contributions (fundraisers) if the name of the applicant/recipient is on the account and the funds are available to the applicant/recipient for support and maintenance.

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303.01.08 **CONTENTS OF SAFETY DEPOSIT BOX**

Some or all of the contents of a safety deposit box may be countable as resources.

Procedure
<p>Determine if the applicant/recipient has a safety deposit box.</p> <p>To verify the contents of a safety deposit box, obtain a signed statement from the applicant/recipient, spouse or authorized representative listing the contents of the box.</p> <p>If the client reports potentially countable resources, apply appropriate policy based on the type of resource reported (stock certificates, coins, jewelry, life insurance policies, etc.) to verify and value the resource.</p> <p>If the client reports possessions stored in another person's' safety deposit box, determine whether the client has access to the safe deposit box by obtaining a statement from the owner of whether or not the client is allowed access to the belongings stored in the safety deposit box. If so, handle as discussed above.</p>

303.01.09 **NON-HOME REAL PROPERTY**

This is land and any permanent buildings/immovable objects attached to it that are not considered a principal place of residence.

Treatment
<ul style="list-style-type: none">• Generally, this type of property is a countable resource.• An exclusion may be developed if there is a bona fide effort to sell.• Refer to procedures in following sections to verify ownership and valuation of the property: Section 301.07.07, Evidence of Real Property Ownership, and Section 301.07.08, Verifying Current Market Value.• Determine equity value (CMV – payoff on any legal debt = EV). If jointly-owned, count the individual's share.

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303.01.10 **529 PLAN**

This is a state-sponsored investment program. Parents may fund these accounts to pay for a child's college education.

Treatment
<ul style="list-style-type: none">• Parents are owners and the account is considered a resource.• Withdrawal for reasons other than to pay for qualified college education is subject to income tax and an additional 10% penalty.• Account statements may be used to verify ownership and value.

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303.02 STOCKS

The following guidelines refer to all stocks, including preferred stock, warrants and rights, and options to purchase stock.

Treatment
<ul style="list-style-type: none">• Shares of stock represent ownership in a business corporation.• The value of a share of stock shifts with demand and may fluctuate widely.• Absent evidence to the contrary, assume each owner of a stock owns an equal share of stock and can sell the stock at will, at current value• Broker fees do not reduce the value that stocks have as a resource <p><u>Verification of Stock Ownership</u></p> <p>Verify ownership using the stock certificate or most recent account statement (including dividend account) from the brokerage firm that issued or is holding the stock.</p> <p>If the individual does not have this information, have them obtain a statement from the brokerage firm. Provide assistance as needed.</p> <p><u>Valuation of Publicly Traded Stocks</u></p> <p>For publicly traded stocks, the CMV of a stock is its closing price on the last business day of the preceding month.</p> <p>The values of over-the-counter stock are shown on a “bid” and “asked” basis. For example, “18 bid, 19 asked”. Use the bid price as the stock’s CMV.</p> <p>On any given day the closing price of the stock can usually be found in the next day’s regular or financial newspaper or it can be obtained from the internet. If the closing price is unavailable through these means, as a last resort, contact a local securities firm. Document the closing price and source of information in the case record.</p> <p>NOTE: The “par” or “stated value” shown on some stock certificates is not the market value of the stock.</p>

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STOCKS (Continued)

Treatment
<p><u>Valuation of Stock that is not Publicly Traded</u></p> <p>The stock of some corporations is held within close groups and traded very infrequently. The sale of such stock is handled privately and subject to restrictions. Therefore, for stock that is not publically traded, the burden of proof to establish the value is on the individual since sale of such stock is handled privately and subject to restrictions.</p> <p>The preferred evidence is a letter or other written statement from the firm's accountants giving their best estimate of the stock's value <u>and</u> the basis for the estimate, e.g., most recent sale, most recent offer from outsiders, CMV of assets less debts on them, cessation of activity and sale of assets, bankruptcy, etc. Keep the statement or a copy of it in the file.</p>

Description of Stocks

Common Stock - Common stock is usually held in the form of a certificate registered in the owner's name. Dividends usually are paid quarterly and may vary with company earnings.

- "Listed" stocks are those listed on the NYSE, AMEX, or on one of the regional exchanges such as Boston, Philadelphia or Chicago.
- Over-the-Counter (OTC) stocks which include "penny" stocks are not listed on the major exchanges. They usually are reported in the National Association of Security Dealers Automated Quotations (NASDAQ) system.

Preferred Stock- Preferred stock receives preference with respect to dividends and, in case of bankruptcy, the distribution of assets. Preferred stock dividends:

- Are paid at a fixed rate
- Must be paid before common stock dividends can be paid, and

Must be made up later, when not paid timely, whereas common stock dividends may be skipped.

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STOCKS (Continued)

Reading Stock Quotations

Stock tables vary little from publication to publication. The following quote is typical, showing right to left:

- The standard abbreviation of the name of the company (Philadelphia Electric in this case), followed by “pf” for preferred stock on the second line;
- The dividend amount
- The price-to-earnings ratio;
- Sales volume in thousands;
- The day’s high, low and closing prices ($22 \frac{3}{4} = \$22.75$); and
- The change in price from the previous day.

NAME	DIV	PE	SALES	HIGH	LOW	LAST	CHG
Phil El	2.20	9	4323	$22 \frac{7}{8}$	$22 \frac{5}{8}$	$22 \frac{3}{4}$	-1/8
Phil E pf	4.30	-	50	$42 \frac{3}{4}$	$42 \frac{3}{4}$	$42 \frac{3}{4}$	-

Description of Options

Option - An option is the right to sell something at a specified price by a specified date. The “something” is usually stock, but there are options on interest rates, stock market indexes, commodity futures and other items as well. An option to sell is called a “put”. An option to buy is a “call”. The value of an option depends on:

- The length of the contract (usually 3, 6, or 9 months);
- The difference between the CMV of the item and price at which the put permits it to be sold or the call permits it to be bought;
- The volatility of the item (how much the CMV is expected to fluctuate).

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STOCKS (Continued)

Buying and Selling Options

Options can be sold through a broker. If the CMV of an item goes up in relation to a call price, the value of the option increases. If it goes down, the value of the option decreases. The reverse is true for a put.

Reading Option Quotations

There are several exchanges across the country that list option prices for about 300 stocks: the Chicago Board of Options (CBOE), AMEX, the Philadelphia Stock Exchange and the Pacific Stock Exchange. Transactions on these exchanges are listed in financial publications and many newspapers.

Although a stock option contract controls 100 shares of stock, options are quoted on the price per share. If a contract sells for \$300, the cost per share is \$3. Options come due and are quoted for each January, April, July and October. The following example is a typical options quotation and shows from left to right:

- The name of the stock (Tandy), the expiration month (April) and per-share price of the option (\$30 for a put option on line 2);
- The number of contracts sold (996 on line 2);
- The high, low and closing prices for a contract (\$56, \$25, \$37.50, respectively, on line 2);
- The net change in the value of the contract (\$6.25 on line 2).

Name			Expiration				Net Change
Date and Price			Week's				
			Sales	High	Low	Last	
Tandy	Apr	30	1317	4 ¾	2 ¾	3 1/8	-1/8
	Apr	30p	996	9/16	¼	3/8	-1/16

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303.03 MUTUAL FUND SHARES

A mutual fund is a company whose primary business is buying and selling securities and other investments. Types of mutual funds include growth funds, income funds, balance funds, municipal bonds, money market funds, load funds, no load funds.

Treatment
<ul style="list-style-type: none">• Shares in a mutual fund represent ownership in the investments held by the fund.• The investments may be pooled assets (such as stocks or bonds, managed by an investment company).• A mutual fund share represents ownership interest in this pool as opposed to a specific stock.• The development guidelines for stocks also apply to mutual fund shares. Many newspapers contain a separate table showing the values of funds not traded on an exchange.

Description of Mutual Funds

Growth Funds - Growth Funds are also known as performance funds and hedge funds. The primary object of these funds is aggressive, long-term growth of investment rather than current income. Dividends typically are low.

Income Funds - The objective of these funds is current income through high dividends and interest as opposed to capital gains.

Balanced Funds - The objective of these funds is a balance of growth and income.

Municipal Bond Fund - The fund invests in tax-exempt bonds and the interest is passed along to holders on a tax-exempt basis.

Money Market Funds - The fund invests in conservative vehicles such as T-Bills and bank certificates. The minimum investment is usually \$1000, but may be less. Income may fluctuate daily based on interest rates. Money market funds often have a check-writing feature.

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MUTUAL FUND SHARES (Continued)

Buying and Selling Mutual Funds

“Load” funds are sold through a broker who collects a commission. “No-Load” funds usually are purchased directly from the fund with no commission and often are advertised in newspapers or magazines.

Reading Mutual Fund Quotations

The format of the following table is typical of those shown in newspapers and financial publications, showing from left to right:

- The names of the funds available for each management group (in this case, four funds managed by the Fund Founders Group):
- The high and low values for the preceding 52-week period;
- The most recent closing price;
- The change over the previous week; and
- The fund’s income and capital gains totals for the previous 12 months.

Fund Founders Group	52 Weeks		Week’s		Capital	
	H	L	Close	Change	Income*	Gains
Growth n.	8.77	6.28	6.37	-0.08	0.157	2.505
Income n.	15.18	13.72	13.87	+0.01	1.273	0.232
Mutual	11.56	9.74	9.98	-0.07	0.426	0.706
Special n.	37.11	22.88	23.54	-0.13	1.900	1.395
N = no load						
*= last 12 months						

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303.04 US SAVINGS BONDS

A US Savings Bond:

- Is an obligation of the federal government,
- Is not transferable,
- Can only be sold back to the federal government.

Treatment
<ul style="list-style-type: none">• Savings Bonds are issued as traditional paper bonds or as book-entry Securities. Book-entry securities (also called savings security instruments or electronic savings bonds) are sold online by the US Treasury Department.• The individual in whose name a US Savings Bond is registered owns it. The owner may name a beneficiary of the bond, but retains sole ownership rights throughout his lifetime. Upon death of the owner, the beneficiary then becomes the new owner.• Paper bonds may have co-owners. Each individual owns equal shares of the redemption value of the bond.• Some electronic bonds called "with" bonds may have the owner listed with one additional person. The additional person listed has authority to cash the bond, but has no ownership rights.• Ownership of a paper bond is noted on the front of the bond and can be verified by viewing the bond itself. View all paper bonds and retain a copy for the record. Ownership of electronic bonds is maintained by the Treasury Department and verification is obtained by the owner by downloading a record of the holdings from the Treasury Department.• Physical possession of a paper bond is required to redeem it. If a person other than the client/spouse will not relinquish possession of a bond, it is not an available resource. NOTE: A transfer of assets may exist unless a successful rebuttal of ownership is offered.• Physical possession does not apply to electronic bonds.

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US SAVINGS BONDS (Continued)

Treatment
<ul style="list-style-type: none">• US Savings Bonds are subject to a mandatory retention period before they can be redeemed. During the mandatory retention period, the bond is not a resource. Retention periods for paper and electronic bonds are:<ul style="list-style-type: none">○ Series E, EE and I bonds issued prior to 2/1/03 for the first 6 months○ Series EE and I bonds issued on or after 2/1/03 for the first 12 months;○ Series H and HH bonds for the first 6 months regardless of the issue date.• To determine the value of Series E, EE and I paper bonds:<ul style="list-style-type: none">○ Use the Savings Bond Calculator at the address shown below or http://www.treasurydirect.gov/indiv/tools/tools_savingsbondcalc.htm○ Use a current copy of the Table of Redemption Values for US Savings Bonds or○ As a last alternative, obtain the value by telephone from a local bank and document the contact.• To determine the value of E, EE or I electronic bonds, ask the client to provide a copy of his "Current Holdings" list, which can be downloaded from the Treasury Direct website: http://www.savingsbonds.gov/. Electronic bonds have no set denominations and can be purchased in any amounts from \$25 to \$30,000 so the face value cannot be determined the same as paper bonds. If the client alleges the Current Holdings cannot be obtained because the password or account number has been lost, he must contact the Treasury Department to retrieve them.• Series E, EE, and I bonds accrue interest which is added to the redemption value of the bonds. Owners of these bonds do not receive interest payments.• Series H and HH bonds are only issued as paper bonds. They are issued at their face value and do not increase in value. Interest is paid to the owner every six months. The cash value is the bond's face value and is obtained from the bond itself. Retain a copy of the bond in the record.

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303.05 **MUNICIPAL, CORPORATE AND GOVERNMENT BONDS**

A bond is a written obligation from a state or locality (municipal bond), a private corporation (corporate bond) or the federal government (government bond) to pay a sum of money at a specified future date.

Treatment
<ul style="list-style-type: none">• These bonds are negotiable and transferable.• Their value as a resource is their CMV. Their redemption value, available only at maturity, is immaterial. <p>Obtain a copy of the bond and verify the value with the bond issuer.</p>

303.05.01 **CORPORATE BONDS**

Corporate bonds are the obligation of a private corporation. Corporations sell bonds to raise capital. There are two type of corporate bonds:

- **Debentures** are backed by the issuer's full faith and credit
- **Mortgage-Backed** bonds are backed by a lien on the company's assets

Corporate bonds are issued in two forms:

- **Registered** bonds pay interest to their registered owner
- **Bearer or coupon** bond pay interest to whomever holds the bond

Convertible Bonds - These bonds are debentures that can be exchanged for a specified number of shares of a company's common stock.

Junk Bonds – These are high risk bonds.

UIT (Unit Investment Trust) – A UIT is a package of bonds in a portfolio. One can buy shares of the package for \$1 to \$1000 per share with a minimum investment of \$750 to \$5000 depending on the trust. The interest rate is usually fixed at purchase and does not change. Units usually are sold or redeemed through the trust sponsor.

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MUNICIPAL, CORPORATE AND GOVERNMENT BONDS (Continued)

Zero Coupon Bonds – These bonds are usually issued by corporations. They do not pay current interest; accrued interest is paid at maturity. The US government does not issue zero coupon bonds directly. However, see TIGER and CATS (US Securities) discussed below.

Interest

Corporate bonds usually pay a fixed rate of interest for a fixed period of time – annually, semi-annually or quarterly.

303.05.02 MUNICIPAL BONDS

Municipal bonds are to city, county and state governments what corporate bonds are to corporations. They are exempt from federal taxes and often are exempt from state and local taxes as well. Most municipal bonds are of two types:

- **General Obligation Bonds** are backed by the full faith and credit of the issuing municipality and supported by the taxing power; and
- **Revenue Bonds** are backed by the project being financed and the revenue or user fees it generates.

Other types of municipals are limited-tax bonds, anticipation notes, industrial development bonds and life-care bonds.

303.05.03 GOVERNMENT BONDS/US SECURITIES

A government bond, distinct from a US Savings Bond, is a transferable obligation issued or backed by the federal government. Examples are:

- **Treasury Bills** are short-term obligations that require a minimum investment of \$10,000. Certificates are not issued for T-Bills; they are registered in book form at the Treasury Department and receipts are provided as proof of purchase. T-Bills can be sold before maturity.
- **Treasury Notes and Bonds** are similar to T-Bills but they have longer maturities and lower minimum investment requirements. They have been registered in book form since July 1986, but were sometimes issued as bearer bonds before then.

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GOVERNMENT BONDS/US SECURITIES(Continued)

- **TIGER (Treasury Investors Growth Receipt) and CATS (Certificate of Accrual on Treasury Securities)** are government securities issued with a zero coupon concept. The broker removes the interest coupons from the security and sells it at a big discount with a long maturity. Accrued interest is then paid at maturity. These bonds can be sold before maturity.
- **Federal Agency Securities** - Some Federal Agencies have charters to issue securities. Minimum investments range from \$1,000 to \$25,000. Some of these federal agencies are:
 - The Federal Home Loan Bank Board,
 - Federal Home Loan Mortgage Corporation (FREDDIE MAC),
 - The Export-Import Bank and
 - The Government National Mortgage Association (GINNIE MAE).

Buying and Selling Bonds

Bonds are usually bought and sold through brokers, securities dealers or other investors. They may sell for more or less than their face value or purchase price, depending on a variety of factors.

Reading Bond Quotations

The following is a typical bond quotation, showing from right to left:

- The name of the issuer (AT&T)
- The bond's nominal or coupon rate (3.78%)
- The last two digits of the year in which the bond matures (1990);
- The current yield (5.6%);
- The number of bonds traded during the year (54,000);
- The highest, lowest and last price of the bond for the period covered by the quotation (bond prices are quoted on a par of 100, so the last price of 69¾ equals \$692.50);
- The net change in the bond price.

ISSUE	CURRENT YIELD	SALES 1000'S	HIGH	LOW	CLOSE	CHANGE
ATT 3 7/8, 90	5.6	54	69 ¾	69 ¼	69 ¼	-3/8

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MUNICIPAL, CORPORATE AND GOVERNMENT BONDS (Continued)

Treatment
<p>The government securities discussed above are countable resources.</p> <ul style="list-style-type: none">• To verify ownership, view and copy the receipt of purchase.• Obtain the value from the issuer.

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303.06 CASH TO PURCHASE MEDICAL OR SOCIAL SERVICES

An individual cannot always disburse cash given to him/her to purchase medical or social services in the month of receipt. To permit use of the funds as intended, it is reasonable to assume, for a limited time, that the individual will use them to pay for approved services and, therefore, that they are not available for support and maintenance.

A cash payment for medical or social services that is not income also is not a resource for the month following month of receipt.

Exception: Even though it is not income, cash received as repayment for bills an individual has already paid is a resource and if retained, is counted the month after receipt.

303.07 RETROACTIVE IN-HOME SUPPORTIVE SERVICES

In limited circumstances, governmental programs will pay a spouse or parent to provide a disabled spouse or child with certain in-home supportive (attendant, homemaker) services (IHSS). IHSS payments are income when received by the ineligible spouse or parent, but are not included as income for deeming purposes. In addition, a period of time is allowed during which retroactive IHSS payments are not considered resources.

A payment is considered retroactive if the payment is made after the month it was due. An IHSS retroactive payment is excluded as a resource the month of receipt and the calendar month after receipt. Beginning the second calendar month after receipt, it is a resource and subject to resources deeming. If the retroactive IHSS payment includes interest, the interest is treated in the same manner as described above.

If payment is made in the month due, but following the month services were rendered, the payment is not retroactive.

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303.08 UNIFORM GIFTS TO MINORS ACT

Most states have adopted the Uniform Gifts to Minors Act (UGMA) that permits making gifts that are tax free to minors. The UGMA is sometimes called the Uniform Transfers to Minors Act.

Under the UGMA legislation:

- An individual (donor) makes an irrevocable gift of money or other property to a minor (the donee);
- The gift plus any earnings it generates is under the control of a custodian until the donee reaches the age of majority established by state law;
- The custodian has discretion to provide to the minor or spend for the minor's support, maintenance, benefit or education as much of the assets as he/she deems equitable; and
- The donee automatically receives control of the assets when he/she reaches the age of majority established by state law (age 21 in Mississippi).

303.08.01 CUSTODIAN

A custodian of UGMA assets cannot legally use any of the funds for his/her own personal benefit. Therefore,

- The assets are not the custodian's resources.
- Additions to, or earnings on the principal are not income to the custodian who has no right to use them for his/her own support and maintenance.

303.08.02 DONOR

Additions to principal may be income to the donor before becoming part of the UGMA principal.

Example: If the donor is a deemor who receives rental income and adds it to a child's UGMA funds, consider the rental income as income for deeming purposes.

Gifts made under the UGMA may involve a countable transfer of resources to the donor, if applicable.

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UNIFORM GIFTS TO MINORS ACT (Continued)

303.08.03 MINOR DONEE

What IS Income to the Minor?

- Custodian's disbursements to the minor
- Disbursements on behalf of the minor used to make certain third party vendor payments

What is NOT Income to the Minor?

- The UGMA property
- Any additions or earnings

303.08.04 DONEE AT AGE 21

- All UGMA property will become available to him/her
- All funds in the UGMA will count as income the month the minor reaches age 21 and a resource thereafter

303.08.05 CREATION AND TRANSFER OF "CUSTODIAL" PROPERTY IN MS

According to Mississippi state law, gifts that are valid under the Mississippi Uniform Transfer to Minors Act must reflect that the gift is being made under this Act. This means the gift(s), e.g., annuity, CD, property, life insurance, etc., must be assigned in writing and substantially worded to show the custodian's name, minor's name and the designation that the gift is authorized under the Uniform Transfer to Minors Act (in Mississippi, MS Code Ann., Section 91-20-19).

Verification

- A copy of the document of ownership assigned in writing and complying with the requirements of state law discussed above.
- If there is no document designating a UGMA transfer, treat as though there is no UGMA.

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304.01.06 MEDICAID QUALIFYING TRUSTS (MQT)

The provisions in this section are applicable to any trust or similar legal device established on or after March 1, 1987, through August 10, 1993, that meet MQT criteria. If MQT criteria are not met, defer to Standard Trust policy.

A Medicaid Qualifying Trust is a trust or similar device, which:

- Is established (other than by will) with the applicant/recipient's own funds, by the applicant/recipient (or spouse),
- Names the applicant/recipient as the trust beneficiary for all or part of the payments from the trust, and
- Permits the trustee to exercise any discretion with respect to the distribution of such payments to the individual.

The MQT provision is applied without regard to whether or not:

- The MQT is revocable or irrevocable, or
- The MQT is established for purposes other than to qualify for Medicaid, or
- The discretion of the trustee is actually exercised.

NOTE: This provision also applies to SSI recipients. Refer to Special Handling of SSI cases for more discussion.

304.01.06A MQT POLICY PRINCIPLES

In determining whether an MQT exists, look for 3 main components:

1. The grantor is the Medicaid client or his representative (e.g., spouse, parent, guardian, conservator or anyone holding power of attorney for the client);
2. The trust was established with property belonging to the client; and
3. The client is at least one of the beneficiaries of the trust.

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MQT POLICY PRINCIPLES (Continued)

In addition, the following principles must be considered:

- The client is considered the grantor even if the trust was established pursuant to court order issued upon the petition of the client or his representative. In this situation, the court acts as the client's agent in establishing the trust.
- It is not necessary that there be a trust agreement, as defined by state law, for MQT trust policies to apply. MQT trust policies apply to **"similar legal devices"** or arrangements having all of the characteristics of an MQT, except there is no actual trust instrument. Examples are:
 - Escrow accounts;
 - Savings accounts;
 - Pension funds;
 - Annuities;
 - Investment accounts;
 - Other accounts managed by agent with fiduciary obligations, such as conservatorships or guardianships.
- The MQT provision does not apply to trust agreements established by will. These trusts are treated as standard trusts. However, if a client inherits resources and in turn establishes a trust, the MQT provision could apply.

304.01.06B RESOURCE TREATMENT OF MQT's

Each trust document must be reviewed individually to determine the resource treatment of the trust, but in general use the following criteria to determine resource treatment:

- **Revocable MQT** - The entire corpus of the trust is an available resource to the client. Resources comprising the corpus are subject to individual resource exclusions, if applicable, since the client can access these resources.

An exception is exclusion of the home for institutionalized recipients. Home property loses its excluded status when transferred into an MQT.

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RESOURCE TREATMENT OF MQT'S (Continued)

- **Irrevocable MQT** – The countable amount of the corpus is the maximum amount the trustee can disburse to (or for the benefit of) the client, using his full discretionary power under the terms of the trust. Resources transferred to an irrevocable MQT lose individual resource consideration. For example, home property transferred to such a trust can no longer be excluded as home property but is included in the value of the corpus.
 - If the trustee has unrestricted access to the corpus and has discretionary power to disburse the entire corpus to the client (or to use it for the client's benefit), then the entire corpus is an available resource to the client.
 - If the trust does not specify an amount for distribution from the corpus of the trust or from income produced by the corpus, but the trustee has access to and use of both corpus and income, the entire amount is an available resource to the client.
 - If the trust permits a specified amount of trust income to be distributed to the client (or to be used for his benefit), but these distributions are not made, then client's countable resources increase cumulatively by the undistributed amount.

304.01.06C INCOME TREATMENT OF MQT's

In general use the following criteria to determine treatment of income from an MQT:

- Amounts of trust income distributed to the client are counted as income when distributed.
- Amounts of trust income distributed to third parties for the client's benefit (including payments for medical services) are countable income when distributed.
- **Exculpatory Clauses** which limit the authority of the trustee to distribute funds from a trust if such distribution would jeopardize eligibility for government programs are ignored for MQT purposes if the language explicitly or implicitly links the trustee's discretion to Medicaid requirements.

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304.01.06D TRANSFER OF ASSETS POLICY - MQT's

If the MQT is irrevocable, a transfer of assets has occurred if the resources are no longer available to the client. Resources rendered unavailable are subject to the transfer penalty based on the value of the unavailable resources without consideration of whether the resource would have been excluded under ongoing policy.

304.01.06E UNDUE HARDSHIP - MQT's

The MQT provision may be waived if an undue hardship exists. This means Medicaid should not be denied to an individual under this provision if the individual would be forced to go without life-sustaining services because the trust funds cannot be released. This does not include situations where the trustee simply chooses not to make the trust funds available.

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304.01.07 STANDARD TRUSTS

Standard trust policy is applicable to trusts or conservatorships established prior to March 1, 1987, and/or trusts that do not meet the criteria of OBRA-93 or MQT trusts, regardless of the date established. In addition, testamentary trusts where the Medicaid client is the beneficiary are also standard trusts.

Whether the trust is counted as a resource depends on the client's role as beneficiary or trustee and the specific terms of the trust. In all situations listed below a copy of the trust agreement or court documents must be obtained for review:

304.01.07A MEDICAID CLIENT IS TRUSTEE

Generally, a person appointed as a trustee cannot use any of the funds in the trust for his/her own benefit. Thus, an individual can be a trustee of a valuable trust and not be able to receive money from the trust since he/she has no access to the funds for personal use. When the trustee has no access to the funds for personal use, the trust is not a resource to the client who is the trustee.

However, under certain circumstances the trust is a countable resource to the client who is the trustee. Count the trust as a resource, regardless of whose funds were originally deposited into the trust, if the client:

- Is the trustee, and
- Has the legal ability to revoke the trust and
- Use the money for his own benefit.

Also, consider the trust a resource to the client if either the client or living-with spouse (eligible or ineligible) is the person who created the trust and has the right to dissolve it and use the funds for his own benefit.

Where trust principal is considered a resource to the trustee, count the total value of the trust and count any interest or distributions as a resource the month following the month of receipt. Do not count as income any withdrawals made from the trust by the trustee since the funds have already been counted as a resource.

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STANDARD TRUSTS (Continued)

304.01.07B MEDICAID CLIENT IS BENEFICIARY

Restricted Access to Principal

If the client is the beneficiary of the trust and the client's access to the trust principal is restricted, meaning only the trustee or the court can invade the principal; the principal of the trust does not count as a resource to the client. Count all payments made to, or on behalf of, the client from a restricted trust as income.

Unrestricted Access to Principal

Count the trust as a resource if the client is trust beneficiary and has unrestricted access to the principal of the trust. In this situation, payments from the trust to the beneficiary are not counted as income since the funds have already been counted as a resource. The payments from the trust are conversion of a resource.

Authority for Discretion by Trustee

The authority for discretion by the trustee in the use of trust funds, including invasion of the principal for support and maintenance of the beneficiary, does not mean that the principal is available to the client and, as such, it should not be counted as a resource. Only the income or resource(s) that is available to the client via the trustee's discretion count for purposes of determining eligibility.

Trustee has Full Discretion

In cases where the trustee has "full discretion" in the use of trust funds, the trustee must specify, by way of a written and signed statement for the case record, what arrangements exist or will be made to release funds or resources for the client's use.

As outlined above, any payments made to, or on behalf of, the client are counted as income unless the trustee states the client has unrestricted access to use of the trust funds; in which case, the funds are a countable resource.

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304.01.07C CONSERVATORSHIPS PRIOR TO 03/01/1987

Conservators and legal guardians are court appointed and are usually court controlled. These types of legal arrangements are initiated when the competence of an individual is at issue. Technically, a legal guardian is appointed to serve over an individual and the individual's resources, whereas a conservator is appointed only to handle an individual's resources. Regardless of the legal term used, an application or active case involving a conservator or legal guardian is handled as outlined below.

- In the absence of evidence to the contrary, conserved liquid and non-liquid resources held by a guardian or conservator on behalf of a Medicaid applicant or recipient are countable resources to that client. The fact that the guardian/conservator manages and controls the funds, (e.g., makes the actual withdrawals), does not alter the attribution of the resource to the client. Since the guardian/conservator legally acts on behalf of the incompetent individual, it is the same as if the individual is controlling or managing the resource.
- "Evidence to the contrary" that may indicate a client does not have total access to conserved resources held by a guardian or conservator is a court order which specifies the disbursement of funds and/or disposal of assets. If the court order or decree specifies the amount and frequency of funds which may be disbursed or restricts the disposal of resources, the court's decision in such matters determines the client's access. However, a "silent" court order, which does not specify disposition and/or availability of conserved resources, is not considered evidence to the contrary. Therefore, conserved funds controlled by a silent court order are considered available to the client.
- The fact that a guardian/conservator must first petition the court in order to dispose of resources or disburse funds does not constitute "evidence to the contrary". State law requires such a petition in guardian/conservator cases making petitioning a standard practice. In all cases where petitioning is required, the conserved resources are considered available to the client unless or until the court is petitioned and rules as to the availability/disposition of assets. When a signed and dated petition is presented as evidence that a court has been petitioned for disbursement of funds and/or disposal of resources, the petition is sufficient to exclude the resources in question until the court renders a decision in the matter.

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CONSERVATORSHIPS PRIOR TO 03/01/1987 (Continued)

304.01.07C1 ELIGIBILITY DETERMINATION INVOLVING CONSERVATORSHIPS

To determine how to handle a case involving a legal guardian or conservator, it is necessary to obtain a copy of the original decree appointing an individual as guardian or conservator. In addition, obtain copies of any legal documents which may subsequently have been issued by the court to amend or change the original decree, if any have been issued. If a guardianship or conservatorship is in the process of being established, the client's resources are considered available until court documents are presented as outlined below:

- If the court order specifies disbursement of funds, any payments made to or on behalf of the client count as unearned income to the client.
- If the court order does not specify the disbursement of any non-liquid resources conserved by the court, consider the funds as a countable resource.
- If the court order specifies that conserved non-liquid resources, such as property, may be disposed of for the benefit of the client, consider the property, etc., as a countable resource. If the court order is silent on the subject of disposal of non-liquid resources, consider the resources countable unless or until the court is petitioned for disposal.
- A court order may specify the disbursement of liquid resources and not mention disposal of any conserved non-liquid resources or vice versa. In such a case, abide by the court's decision regarding the disbursement or disposal issue specified and count as a resource the unspecified resource.

Example: A conservatorship court order specifies the release of \$100 per month from a savings account with a \$5000 balance and fails to mention the disposal of 50 acres of property owned by the client. The \$100 is counted as income while the balance of the account is excluded as a resource. The property is countable until the court is petitioned for the purpose of disposing of the property.

- Court orders that are not specific on the availability of conserved resources result in the availability of the conserved resource to the client until the month the court is petitioned for use of the conserved funds or resources. A valid petition will exclude the resource provided the petition requests the court to rule as to the disposal and/or disbursement of conserved resources. The exclusion will apply until the court rules in the matter at which time the case must be reviewed in light of the court decision.

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304.01.08 MEDICARE CATASTROPHIC COVERAGE ACT TRANSFER POLICY

The Medicare Catastrophic Coverage Act of 1988 (MCAA) repealed the transfer of resources penalty for non-institutionalized individuals. New transfer of resources policy created under the MCAA applies only to institutionalized individuals as defined below, who transfer resources on or after July 1, 1988 through August 10, 1993. Transfers that occur after August 10, 1993, are evaluated under OBRA-93 transfer policy.

Definition of Institutionalized Individual

An institutionalized individual is an individual who is a nursing facility inpatient, an inpatient at a medical institution receiving a nursing facility level of care or a recipient of home and community-based waiver services. ICF-MR residents are not included in this definition.

The transfer penalty resulting in ineligibility, as defined below, applies to nursing facility services, medical institution services where the level of care provided is equivalent to nursing facility care. An institutionalized individual remains eligible for all other Medicaid services while a transfer penalty is in effect, provided eligibility is met on all other factors.

Transfer Penalty

An institutionalized individual, who, at any time during the 30-month period immediately before the individual's application for medical assistance, disposed of resources for less than fair market value shall be ineligible for nursing facility services beginning with the month in which resources were transferred. An institutionalized individual is also prohibited from transferring resources during the period of institutionalization, unless an exception applies.

Effective October 1, 1989, the transfer penalty also applies to a community spouse who transfers resources within the 30-month period preceding application and/or during the time his-her spouse remains institutionalized. A transfer of resources by a community spouse to another individual will result in a transfer penalty applying to the institutionalized spouse.

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Medicare Catastrophic Coverage Act Transfer Policy (Continued)

The Penalty Period

The period of ineligibility shall be equal to the lesser of:

- 30 months, or
- The number of months required to deplete the uncompensated value (UV) based on the total UV of the transferred resources divided by the average monthly cost of nursing facility services to a private pay patient.

30-Month Penalty

The 30-month period is calculated using the month of a transfer as the first month continuing through the 30th consecutive month, provided the transfer occurred on or after July 1, 1988. The 30-month period of ineligibility is imposed unless the UV/private-pay calculation results in a period of ineligibility less than 30 months.

Private Pay Calculation

The private pay calculation is based on a statewide average private pay cost of \$1,456.00 per month. In calculating the period of ineligibility, divide the UV by \$1,456.00 to determine the number of month that an individual will be ineligible for nursing home services. All calculations are rounded down to the nearest whole dollar.

Example: If the total UV is \$20,000, then \$20,000 divided by \$1,456 = 13.73. Rounding down, the period of ineligibility would be 13 months, which is less than the 30-month penalty.

Determining the Period of Ineligibility

The month of the transfer is always “month one” of the period of ineligibility. As a result, the penalty period may be expired or near expiration as of the month of the application.

Example: A transfer with UV of \$5,000 occurs 7/5/88. Using the private pay calculation, the period of ineligibility for nursing facility services is 3 months, July through September. If the application is filed on or after October 1, 1988, the penalty period will have expired, although eligibility for all other Medicaid services is possible in the retroactive period.

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Medicare Catastrophic Coverage Act Transfer Policy (Continued)

If the UV does not result in ineligibility for at least one month, the transfer will not count.

Example: If the transfer is for \$1,000, which is less than the average private pay rate, no penalty applies for the month of the transfer.

Each transfer is evaluated based on the month the transfer occurred. If more than one transfer occurs in the same month, the UV is combined and the penalty period calculated on total UV for a particular month. If transfers crossover into different months, each transfer is evaluated separately and UV is not combined. The possible results would be overlapping penalty periods.

Exceptions to Transfer of Home Property

The transfer penalty will not apply to the transfer of home property by an institutionalized individual to the following family members:

- The individual's spouse or child under age 21 **or** a disabled or blind adult child; or
- A sibling who is part owner of the home who lived in the home for one (1) year before the individual entered the nursing facility; or
- A child who lived in the home for up to two (2) years before the individual entered a nursing facility and provided care to the individual which permitted the individual to remain at home.

Exceptions to Transfer of Any Type of Resource Other Than the Home

The transfer penalty will not apply to the transfer of any type of resource in the following situations:

- Resources are transferred to or from the individual's spouse. Effective October 1, 1989, a transfer of assets from a community spouse to another individual will result in a penalty charged to the institutionalized spouse.

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Medicare Catastrophic Coverage Act Transfer Policy (Continued)

Exceptions to Transfer of Any Type of Resource Other Than the Home (Continued)

- Resources are transferred to the institutionalized individual's child who is disabled or blind.
- Satisfactory evidence is presented to show that the individual intended to dispose of the resource(s) either at fair market value or for other valuable consideration, **or**, that resource(s) were transferred exclusively for a purpose other than to qualify for Medicaid.
- Denial of eligibility would result in undue hardship.
- The resource was excluded under ongoing policy at the time for the transfer.
- The resource was transferred by an individual other than the institutionalized applicant/recipient and that person had no legal authorization to act in the applicant's or recipient's behalf at the time of the transfer.

Notice of Transfer of Resources

The client will be notified via DOM-322A, Notice of Transfer of Resources, regarding countable transfers and the penalty period. The notice will allow the client or representative 10 days to present evidence to show that the transfer should not count. Evidence should include a written rebuttal plus any pertinent documentary evidence. If no rebuttal is offered, the penalty will be applied and the appropriate adverse action notice issued to deny or terminate payment of nursing home services only. The individual remains eligible for all other Medicaid services if the transfer penalty is the only factor of ineligibility. If the individual is ineligible on other factors as well as the transfer, the application or case must be denied or terminated.

Rebuttal Process

Written rebuttals along with the regional office decision regarding acceptability are to be submitted to state office. The material submitted should include the rebuttal, a copy of the transfer notice issued to the client and a summary of circumstances surrounding the transfer. The regional office will be notified of the final decision.

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Medicare Catastrophic Coverage Act Transfer Policy (Continued)

Acceptable Rebuttals

Factors which may indicate that a transfer was made for some purpose other than establishing Medicaid eligibility are listed below. The presence of one or more of the following factors may result in an acceptable rebuttal:

- The occurrence **after** a transfer of resources of one or more of the following:
 - Traumatic onset (e.g., traffic accident of disability or blindness;
 - Diagnosis of previously undetected disabling condition;
 - Unexpected loss of other resources which would have precluded Medicaid eligibility;
 - Unexpected loss of income (including deemed income) which would have precluded Medicaid eligibility.

In general, if the client was healthy and/or financially secure at the time of the transfer, with no expectation of future Medicaid need, then an acceptable rebuttal may be established.

- Total countable resources that would have been below the resource limit at all times from the month of transfer through the present month even if the transferred resource had been retained;
- Court-ordered transfer;
- Resource(s) sold at less than current market value in order to obtain cash quickly to meet expenses or repay a legal debt.

Undue Hardship

The transfer penalty can be waived if a period of ineligibility would result in undue hardship for the institutionalized individual. Undue hardship exists if a Medicaid denial of nursing home care would result in the individual's inability to obtain medical care. Each case situation must be reviewed individually to determine if undue hardship exists but the provision is geared toward financially and medically needy individuals with no possible means of recovering their transferred resource(s).

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Medicare Catastrophic Coverage Act Transfer Policy (Continued)

Return of a Transferred Resource

If a transferred resource is returned to or if compensation is received by the institutionalized individual, the UV is no longer an issue or is reduced as of the date of return. The resource of compensation is evaluated according to normal resource rules in the month of the return. Any portion of a transferred resource that is not returned continues to count as UV which means the penalty period must be re-evaluated.

Recalculation of a Penalty Period

A penalty period must be recalculated from the month a portion of the resource is returned or additional compensation is received.

Example: A transfer of \$10,000 occurred in 10/88 resulting in a 6-month penalty period, or October 1988 – March 1989. In January 1989, \$5,000 is returned to the institutionalized client. The penalty period is then recalculated using UV of \$5,000 transferred in 10/88 which results in a revised period of ineligibility of 3 months or October 1988 – December 1988. .

If the full resource is returned, normal resource rules apply the month of the transfer.

Transfer Penalty Involving SSI Months

The transfer penalty can be imposed during months that an individual receives SSO or is SSI-eligible in a nursing home.

Example: An ABD application is filed in December 1988 and a transfer is discovered during the application process. The applicant had entered the nursing home in October 1988 as an SSI eligible and SSI eligibility continued until 12/31/88. The transfer results in a 4-month penalty period. The penalty can be imposed for October 1988 – January 1989 even though SSI eligibility existed October 1988 – December 1988. This would mean no vendor payment would be authorized for the 4-month penalty period.

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Medicare Catastrophic Coverage Act Transfer Policy (Continued)

As a result, specialists need to postpone sending notices on an SSI to ABD applicant advising of eligibility based on SSI until eligibility for ABD is determined which excludes any transfers for the SSI months.

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305.01 ENCUMBRANCE OF A LIQUID RESOURCE

An encumbrance is defined as a legal obligation to pay a debt. If an applicant/recipient's combined resources exceed the resource limit, the specialist must deduct the amount of any encumbrances from the Current Market Value (CMV) to determine the equity value of a resource. The equity value is countable toward the resource limit.

305.01.01 ENCUMBRANCE OF A LIQUID RESOURCE (SSI POLICY)

An encumbrance may occur when the applicant/recipient in an SSI-related coverage group has alleged a check has been written from a bank account, and it has not yet cleared the bank.

Procedure
<p>If the individual has alleged a check has been written from a bank account and it has not cleared, the specialist must</p> <ul style="list-style-type: none">Examine evidence that the check was written, therefore legally obligating the funds from the bank account. <p>Verification must be obtained before allowing a reduced equity value of the bank account. Once verification is received, the equity value of the bank account can be established by deducting the amount of the check written.</p> <p>Verifications needed:</p> <ul style="list-style-type: none">Paid receipt, cancelled check, etc. <p>Example: Mr. Timmons' bank statement shows a checking account balance of \$1,250 as of May 1, which combined with other countable resources, exceeds \$2000 as of the first day of the month. Mr. Timmons alleges that the balance includes his rent check of \$500 which he wrote and gave to the landlord on April 25, but his landlord has not yet cashed the check.</p> <p>The specialist examines Mr. Timmons' check register and finds an annotation for check number 1345 written on 4/25 for \$500. He also notes that check 1346 has already cleared the bank and has been deducted from his account according to the bank statement. Next the specialist notes Mr. Timmons has written a \$500 check to his landlord for rent on or around the 25th of each month for the last six months.</p>

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ENCUMBRANCE OF A LIQUID RESOURCE UNDER SSI POLICY

Procedure
<p><u>Example</u> (Continued)</p> <p>Since there is evidence that Mr. Timmons has written the check and legally obligated those funds in his account, <u>and</u> his records provide a complete and consistent picture of the account, the specialist can deduct the amount of the uncashed check from the 5/1 first of the month balance.</p> <p>The uncashed check can be deducted because SSI equity value rules state that in determining equity value, we deduct encumbrances from the CMV. The new balance of \$850 permits eligibility on resources.</p>

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305.01.02 **ENCUMBRANCE OF A LIQUID RESOURCE (LIBERALIZED POLICY)**

Under liberalized resource policy, an encumbrance may occur when the applicant/recipient has alleged a check has been written from a bank account, and it has not yet cleared the bank.

Procedure
<p>Alleged Check has not Cleared the Bank</p> <p>If the individual has alleged a check has been written from a bank account and it has not cleared, the specialist must</p> <ul style="list-style-type: none">• Examine evidence that the check was written, therefore legally obligating the funds from the bank account. <p>Verification must be obtained before allowing a reduced equity value of the bank account. Once verification, is received, the equity value of the bank account can be established by deducting the amount of the check written.</p> <p>Verifications needed:</p> <ul style="list-style-type: none">• Paid receipt, cancelled check, etc. <p>Example: Mr. Jon Doe applied for Medicaid on January 4. As of January 31, Mr. Doe's bank statement shows a checking account balance of \$2,350, which combined with other countable resources, exceeds \$4000. Mr. Doe alleges that the balance includes his rent check of \$500 which he wrote and gave to the landlord on January 22, but his landlord has not yet cashed the check.</p> <p>The specialist examines Mr. Doe's check register and finds an annotation for check number 1345 written on January 22 for \$500. Since there is evidence Mr. Doe has written the check from the account, the specialist can deduct the amount of the uncashed check since it is an encumbrance.</p> <p>In determining equity value of the bank account, the encumbrance of \$500 is deducted from the \$2,350 in the bank account. Eligibility can be established for Mr. Doe for January if he is otherwise eligible.</p>

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305.01.03 **RESOURCE SPENDDOWN (LIBERALIZED POLICY)**

For cases subject to liberalized resource policy, effective October 1, 1989, eligibility can exist for an entire month when an individual or couple meets the resource test during the month. This allows an applicant to “spenddown” resources in a month to become eligible for that month.

Under the liberalized spenddown provisions, resources can be reduced within the applicable limit and as long as resources remain within the limit for that month, eligibility can be established.

The following are considered in making the determination:

- Do not allow payment of expenses that will be returned, refunded or reimbursed as legitimate spenddown expenses when calculating resources for a given month. Client-owned resources spent for reimbursable expenses count as an available resource in the month paid.
- Allow outstanding checks/payments as an expense if proof is provided that the payment was authorized during the spenddown month and the expense is non-reimbursable.
- The spenddown provision implies that an individual spends down to the resource limit and remains at or below the limit for the remainder of the month. When determining eligibility for a prior period and reviewing the resource situation for a full month, the individual or couple must have depleted resources to acceptable level and remained eligible for that month for a true spenddown to have occurred.

Example: An individual had \$5,000 in a bank account on the first of the month and spent \$3,000 on a pre-paid burial contract on the 5th of the month. However, on the 20th, he sold his car, which was excluded as a resource for \$2,500. The \$2,500 then becomes a resource (conversion of a resource) in the same month and unless the individual spends the excess \$2,500 by the end of the month, eligibility cannot be established for that month.

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Resource Spenddown (Liberalized Policy) (Continued)

Resources Earmarked for Private Pay of LTC

Under liberalized resource policy, if excess liquid resources are earmarked for payment of private pay expenses for month(s) prior to a month of Medicaid eligibility, these excess resources can be excluded as a resource for any potential Medicaid months since the funds are obligated.

If Medicaid will cover any months that have been paid as private pay by the client, the amount subject to reimbursement **is** a resource in the month paid.

Example: A LTC applicant enters a nursing home in June and applies for Medicaid in August. The applicant's bank account is \$6,000, but \$4,500 is earmarked for private pay for June/July. Medicaid is needed for August 1. Since the \$4,500 is obligated for months prior to Medicaid eligibility, it can be excluded as a resource in determining eligibility for August forward, provided the earmarked funds are used to pay for the intended private pay expenses.

Accumulated Income Earmarked as Medicaid Income

Under liberalized resource policy, income that accumulates while a Medicaid application is in process and that is obligated for payment of Medicaid income for months that will be covered by Medicaid can be excluded as a resource if excess resources result from accumulating income.

Example: A LTC applicant enters a nursing home in August and applies for Medicaid in October requesting benefits retroactive to August. The client's income is \$1,200 per month. In November when the case is being worked up, the bank balance is \$5,000. Medicaid Income for September and October would be \$2,312 ($\$1,200 - \$44 = \$1,156 \times 2$). November's income of \$1,200 can be backed out of the balance plus the \$2,312 obligated for September and October Medicaid Income, thus leaving \$1,488 as a countable resource for November.

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306.01 DEEMING OF RESOURCES

For SSI and Medicaid purposes, an individual's resources are deemed to include any resources of an ineligible spouse or ineligible parent(s). Resources are deemed whether or not they are actually available. Deeming only applies in household situations, i.e., it only applies to an eligible with an ineligible spouse or parent(s).

In deeming resources from one spouse to the other, consider only the resources of those two individuals. In deeming resources from a parent to a child, consider only the resources of the parent. Where there is more than one eligible child, the resources available for deeming are shared equally among the children.

Example: If there are two eligible children and \$500 in parental resources must be deemed, deem \$250 to each child.

Do not include the resources of a stepparent who is not legally liable for support of the child under state law in the deeming process.

306.01.01 EXCEPTION TO DEEMING OF RESOURCES

Effective September 1, 1987, pension funds owned by an ineligible spouse or parent(s) are excluded from resources for deeming purposes. This exclusion applies in order for an ineligible spouse or parent(s) to provide for their own future support. Pension funds are defined as monies held in a retirement fund under a plan administered by an employer or union, or an individual retirement account (IRA) or Keogh account as described by Internal Revenue Code.

306.01.02 SPOUSE TO SPOUSE DEEMING

Total countable resources are the combination of the resources of the eligible individual and ineligible spouse after all applicable resource exclusions are applied. Total countable resources are compared to the resource limit for a couple. If the amount of the resources does not exceed the limit, the applicant/recipient meets the resource eligibility requirement. If countable resources exceed the limit for a couple, the applicant/recipient is ineligible. Verify and document the ineligible spouse's resources as required for an eligible individual.

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Spouse to Spouse Deeming (Continued)

Eligible Spouses Not Living Together

If an eligible individual and eligible spouse are **not** living together, the resources of both members (whether owned separately by each or jointly by both) are combined only for the month of separation. Each member of the couple is treated as an eligible individual beginning with the month after the month of separation, i.e., no longer living in the same household, and the resource limit for each is the individual resource limit.

Deeming and Changes in Marital Status

When a change occurs in marital status, a new resource limit is established and a new resource determination is made for the first month in which the new resource limit (individual or couple) is effective as a result of the change.

Make a new resource determination for the first month in which a new resource limit (individual or couple) is effective as a result of the change in marital status.

Example: If two eligible individuals marry in February, a new resource determination would be required for March since the individuals became a couple effective on the first day of March as a result of the marriage.

For SSI or Medicaid purposes, the marital relationship of a couple can be ended by death, divorce or annulment:

- If a marriage ends by death, divorce or annulment in the same month the marriage began, treat the marriage as though it had not occurred.
- Beginning with the month following the month of the death of one member of a couple, the surviving member will be an eligible individual if all other eligibility criteria are met.
- If the marital relationship of a couple terminates by divorce or annulment, each member of the couple should be treated as an individual effective the first day of the month following the month the couple no longer lives in the same household.

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306.01.03 PARENT TO CHILD DEEMING

In determining eligibility for a child under age 18 (or under 21, if a student), who lives with his parent(s), the resources of the child include the value of the countable resources of the parent(s) or parent/stepparent to the extent that the resources of the parent(s) or parent/stepparent exceed the resource limit of:

- An individual, if one parent lives in the household; or
- A couple, if two parents live in the household.

Considerations When Deeming from Parent(s) to Child

When deeming from parent(s) to child, the following should be considered:

- Do not include the resources of the stepparent in the deeming process.
- The value of parental resources is subject to deeming whether or not those resources are available to the child.
- If there is more than one eligible child under 18 or (under 21, if a student) in the household, equally divide the value of the deemed resources among those children.
 - If an eligible child is later determined ineligible for any reason or is no longer subject to deeming (e.g., after attainment of age 18). Divide the value of the deemed resources among the remaining eligible children effective with the first month the child is ineligible or no longer subject to deeming.
- A child's total countable resources are the combination of the value of the deemed resources and the non-excluded resources of the child.

Resource Determination for a Child

A child's countable resources are compared with the resource limit for an individual with no spouse. If the resources do not exceed the limit, the child meets the resource eligibility requirement. If countable resources exceed the limit, the child is ineligible because of the excess resources.

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306.01.03 MULTIPLE DEEMING

When more than one eligible individual lives in the same household and there is a parent-child relationship, a multiple deeming situation may exist:

- If a child under age 18 (or under 21, if a student) lives in the same household with a parent(s) applying for Medicaid or an eligible parent(s), determine the countable resources of the parent(s).
- If the parent(s) meets the resource eligibility requirement, do not deem the value of any parental resources to the child.
- If the parent(s) do not meet the resource eligibility requirements, follow the usual parent-to-child resource deeming rules to determine the value of the deemed parental resources.

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307.01 GENERAL VERIFICATION REQUIREMENTS

Generally, resources must be verified for any month for which you must determine eligibility. For the following types of action, verify as follows:

Applications

Specifically, for initial applications, verify the value of resources for the month of application and each month(s) of possible retroactive eligibility. Verify months subsequent to the month of application as necessary.

Redeterminations

For redeterminations, verify, as needed, the value of resources for up to 3 months prior to the review month. It is permissible for resources to be developed as of the most recent month for which verification is available for regular reviews, rather than requiring resource balances for the review month.

Appeals

If a client appeals a denial related to a particular resource, the evidence in the file must clearly establish the value of that resource. If must do so even if the issue under appeal is not the value itself (e.g., when the issue under appeal is ownership). This requirement ensures that at each level in the appeals process, the file contains complete documentation of the resource in question.

307.01.01 EXCEPTIONS TO GENERAL VERIFICATION REQUIREMENTS

Do not verify the value of resources for a given month if:

- The resource is totally excluded, regardless of its value;
- The alleged value of total countable resources exceed the applicable limit for that month; or
- The individual is ineligible that month for reasons other than excess resources

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General Verification Requirements (Continued)

307.01.02 DEVELOPMENT OF EQUITY VALUE

Develop the equity value of a resource (liquid or nonliquid) when an individual alleges a debt against it and the difference between equity and CMV could mean the difference between eligibility and ineligibility. Verify, at a minimum, the outstanding principal balance (payoff), the rate of interest and the schedule and amount of payments (to permit the projection of increases in equity). Obtain a copy of the agreement or note that establishes the debt. If this does not provide all the information needed, use other records of the individual, the creditor or both.

307.01.03 FREQUENCY OF VERIFICATION REQUIREMENTS

At a minimum, resources owned by a client are verified at the time of application and at each regular review scheduled annually. However, circumstances may warrant re-verification of resource(s) at shorter intervals.

The following describes situations which mandate re-verification of resources at shorter intervals than annually, but it is not an all-inclusive list. Any reported changes in resources or discovery of changes in resources may warrant verification or re-verification.

Resources Within \$100 of Applicable Limit

Individuals/couples determined eligible for Medicaid who own countable resources valued within \$100 of the applicable limit **must have resources renewed/verified every six months**, rather than annually. The purpose of the 6-month special review will be to verify the value of countable resources in order to determine if the individual/couple remains eligible based on resources. A tickler must be utilized to control the timing of the required special review of cases with countable resources close to the resource limit.

Cases With VA Income That is Not Countable

Client cases, especially long term care cases that receive excess income that is not countable as income must be monitored closely for excess resources. The amount of the monthly income that is not counted will determine the frequency review/re-verification is deemed necessary.

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Frequency Of Verification Requirements (Continued)

Long Term Care Recipients in Medicare Beds

Individuals who are placed in Medicare-certified nursing facilities are not required to pay any of their income toward the cost of their care which means that income may be allowed to accumulate and result in excess resources during the first 100 days of possible Medicare coverage. This means it is necessary to re-verify resources during the period of Medicare coverage to check for possible excess resources.

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Reduction or Termination of Benefits (Continued)

Example: The recipient did not provide income verification needed for the May redetermination. The closure is authorized on May 10th and advance notice is mailed to the client advising that eligibility will terminate effective May 31st. On May 18th, within the advance notice period, the verification is received in the office. The specialist takes action to process the case as a reinstatement and determines eligibility using the current income. The supervisor then reviews the action and authorizes the eligibility decision. Appropriate notice is issued to the client and there is no break in coverage.

101.11.07E COMPLIANCE AFTER CLOSURE

When the ABD client fully complies with redetermination requirements after closure, a reapplication is not required if the following is met:

- The case has been closed for 2 months or less at the time of full compliance.

Example: The ABD recipient did not comply with review requirements for a May redetermination. The closure is authorized on May 10th effective May 31st. If the client fully complies by July 31st, eligibility can be determined using the reinstatement process. After July 31st, a reapplication must be filed.

The specialist is responsible for taking action within 48 hours of full compliance to register the reinstatement in MEDS. If the reason for closure is failure to provide requested information, the case will be processed using the most recently completed application form. There is no requirement to re-interview the recipient, if applicable, or obtain an updated signature on the application form. If redetermination requirements are not fully met during the 2-month timeframe, a reapplication is required.

Partial Compliance After Closure

If the recipient partially complies with redetermination requirements after case closure, a telephone contact will be attempted to inform the recipient of the action or information still needed. All efforts to contact the client must be documented in the case.

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300.04 SSI RESOURCE POLICY OVERVIEW

SSI policy specifies different exclusion limits or different ways to determine countable resources. If the resource policy has not been liberalized, SSI policy is applicable unless a subsequently issued federal statute or Medicaid regulation supersedes SSI policy.

SSI policies include:

- Eligibility is based on the individual's countable resources as of the first moment of the first day of the month and is applicable to the entire month. If resources exceed the limit as of the first moment of the first day of the month, the individual or couple is not eligible for that month. It is not possible to "spenddown" resources within a month to establish eligibility for that month under SSI resource policy.
- One automobile is automatically excluded regardless of value.
- The value of life estates and remainder interest in real property is a countable resource.
- The cash value of whole life insurance is excluded, if the combined face value of all policies on any individual is \$1,500 or less. The combined face value of these excluded policies is used as an offset in determining burial fund exclusion.

300.04.01 FIRST OF THE MONTH RULE FOR MAKING RESOURCE DETERMINATIONS

In the programs using SSI policy, resource determinations are made as of the first moment of a calendar month. Any increase or decrease in the value of resources during a month is considered as of the first moment of the month following the month the change occurred.

Example: Tom Lee applies for assistance on March 30th. His only resource is 20 shares of XYZ stock that are worth \$800.00 on the date he applied. On April 30th, the value increased to \$1,000.00. His countable resource amount for April is \$800.00. The countable value for May is \$1,000.00.

Example: Rhonda Mooney applies for assistance on April 5th. On April 1st, her resources were \$500 in checking and \$700 in savings. On April 5th, her son gave her money and she purchases a CD worth \$1,800. Her savings balance increased to \$750 on April 30th, but her checking balance dropped to \$350. For April, countable resources are \$1,200 (\$500 + \$700). For May, they are \$2,900 (\$1,800 + \$750 + \$350). The CD is not considered until May since it was acquired in the middle of the month.

NOTE: Do not consider as a resource any advance dated checks or advance posted direct deposit checks received prior to the month of normal receipt. If retained, funds from such checks will be considered a resource as of the first moment of the first day of the month following the month in which the check is normally paid.

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301.01.03 FEE SIMPLE OWNERSHIP

Type of Ownership	What It Means
Fee Simple Ownership	<ul style="list-style-type: none">• Relates only to real property• Means absolute and unqualified legal title to real property• Fee simple ownership is completely free of conditions imposed by others• The owner has the unconditional power of disposition during his lifetime.• Upon the owner's death, property held in fee simple can always pass to the owner's heirs.• May exist with respect to property owned jointly or solely.

301.01.04 LESS THAN FEE SIMPLE OWNERSHIP

Type of Ownership	What It Means
Equitable Ownership	<ul style="list-style-type: none">• Exists without legal title to property.• Legal title may belong to another or to no one.• Examples of equitable ownership include ownership in unprobated estates or trust property.
<ul style="list-style-type: none">• Unprobated Estate	<p>An individual may have an equitable ownership in an unprobated estate if he is an heir or relative of the deceased, receives income from the property or acquires rights through intestacy laws.</p> <p>Under liberalized resource policy, estates in process of probate are excluded. Under SSI resource policy an unprobated estate becomes a resource the month following the month it meets the definition of income.</p>

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302.05 INTERESTS OF INDIVIDUAL INDIANS IN TRUST OR RESTRICTED LANDS

Certain types of Indian-specific property are excluded from being considered as resources in determining Medicaid eligibility for an individual who is an Indian. These excluded resources include the following:

Property Connected to the Political Relationship between Indian Tribes and the Federal Government

- Any Indian trust or restricted land, or any other property under the supervision of the Secretary of the Interior located on a reservation, including any federally-recognized Indian Tribe's reservation, pueblo or colony, and including Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior. This exclusion includes Individual Indian Monies (IIM) accounts, which are under the supervision of the Secretary of the Interior, and considered to be inaccessible.
- Property located within the most recent boundaries of a prior Federal reservation, including former reservations in Oklahoma and Alaska Native regions established by the Alaska Native Claims Settlement Act. The Tribe, through the Department of the Interior, can provide verification to identify such property.
- Ownership interest in rents, leases, royalties or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally-protected rights. Monies received from the lease or sale of these natural resources remain excluded while in an IIM account.

Property with Unique Indian Significance

- Property with unique Indian significance such as ownership interest in or usage rights to items not covered under the above provisions that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or traditional lifestyle according to Tribal law or custom.

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Interests of Individual Indians in Trust or Restricted Lands (Continued)

While the above identified assets are excluded in determining eligibility, if the assets are converted to a non-excluded asset, they become countable. For instance money in an IIM account is excluded; however, once the money is removed from the IIM account it becomes a countable asset.

NOTE: Money received by Indians from the lease or sale of natural resources, and rent or lease income, resulting from the exercise of federally-protected rights on excluded Indian property, is considered an asset conversion. Therefore, this money is not considered income, but is an excluded resource in the month the money is received (This is true even if the money is taken out of the IIM account in the same month it was deposited into the account). If some or all of the money is retained at the end of the month in which received, it is either counted or excluded based on the type of resource in which the money is retained after month of receipt.

This exclusion includes distributions of per capita judgment funds or property earnings held in trust for a Tribe by the Secretary of the Interior. However, this does not include local Tribal funds that a Tribe distributes to individuals on a per capita basis, but which have not been held in trust by the Secretary of the Interior (e.g., tribally managed gaming revenues, which are countable income).

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304.01.03C INCOME TRUSTS

This type of trust established for the benefit of the individual is limited to institutionalized clients, not those in a hospital setting. A recipient participating in the Home and Community Based Waiver program (HCBS) may also utilize an Income Trust for eligibility purposes. An Income Trust document is required. The Income Trust must meet the following requirements:

- The trust is composed only of the pension(s), Social Security, and other income of the individual, including accumulated interest in the trust; and,
- Upon the death of the individual, the Division of Medicaid receives all amounts remaining in the trust, up to an amount equal to the total medical assistance paid on behalf of the individual. To qualify for this exception, the trust must include a provision to this effect.

The Income Trust provision is designed to assist individuals who have too much income to qualify for Medicaid institutional care, but not enough income to pay private pay for the long term care needed. It is intended for individuals with excess recurring monthly income that causes ineligibility. The Income Trust is a binding document that directs how income received each month will be obligated. As a result, an Income Trust will not be allowed on a temporary or intermittent basis with the following exception: an Income Trust for monthly excess income that will be reduced at a future date will be allowed during the period of time the monthly income exceeds the Medicaid institutional limit.

For example, a nursing home applicant with excess income that includes a VA pension will be allowed an Income Trust until such time as the VA reduces the pension payment to \$90, thereby eliminating the need for an Income Trust. Income received once or twice per year or on a quarterly basis does not qualify for the use of an Income Trust. This type of irregular and infrequent income should be converted to monthly income before allowing an Income Trust to be established.

Income Included in an Income Trust

To qualify for this exception, the Income Trust must be composed only of income to the individual, from whatever source. The trust may contain accumulated income, i.e., income that has not been paid out of the trust. However, no resources, as defined by SSI, may be used to establish or augment the trust. Inclusion of resources voids this exception.

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Income Included in an Income Trust(Continued)

All individuals with an income Trust who receive a 13th check from State Retirement will be required to have the 13th check averaged over the 12-month period. The representative for the recipient can have this change made by contacting the State Retirement office.

Income Not Included in an Income Trust

An individual's total income must go into the Income Trust each month. The only exception is for the types of VA payments that are not considered income, i.e., VA Reduced Pension benefits, VA Aid & Attendance payments and VA Pension payments attributed to Unreimbursed Medical Expenses.

Funding the Income Trust Account

All of a nursing home recipient's income, less deductions authorized by Medicaid, will be paid to the nursing home. In most cases no funds will be retained in the Income Trust account.

The recipient's cost of care, referred to as Medicaid Income, will be determined by the total gross income and the daily rate that Medicaid pays the nursing facility where the recipient resides. However, if the rate for the facility is less than the recipient's income, the recipient's excess income will fund an income trust account.

Example: The recipient's countable income is \$3,800 per month. The Medicaid daily rate for the facility where the recipient resides is \$3,500 per month. The excess income of \$300 per month must fund an Income Trust account. This example applies if income for only one month exceeds the Medicaid daily rate or if the income for all the months exceeds the Medicaid daily rate.

However, when the rate for the facility is more than the recipient's countable income, all of the recipient's income is payable to the facility and the Income Trust account will not be funded.

Example: The recipient's countable income is \$2,500 per month. The Medicaid daily rate for the facility where the recipient resides is \$4,500 per month. The recipient will pay the facility \$2,500, and the Income Trust account will not be needed. However, a trust document is still required.

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Home and Community Based Waiver (HCBS)

For individuals in the Home and Community Based Waiver (HCBS), the difference between an individual's total income and an amount that is \$1 less than the current institutional income limit should fund the Income Trust account. The only allowable expenses from the amount funding the trust are actual expenses associated with the establishing the trust, which is limited to \$500 or actual cost if less than \$500. Bank charges associated with maintain trust accounts are limited to \$10 per month.

Other Income Trust Issues

- Trusts that are not properly funded into an Income Trust account do not meet the criteria for a trust exception.
- When an Income Trust is no longer needed due to the client's death, ineligibility or some other change, the Division of Medicaid receives all amounts remaining in the trust account, up to an amount equal to the total medical assistance paid on behalf of the individual. To qualify for this exception, the trust must include a provision to this effect.
- The Income Trust agreement which is located immediately following this section can be copied for execution by the recipient and trustee. The only changes to this legally binding document that the Division of Medicaid will accept will be to add language regarding a successor trustee or co-trustee. Changes must be approved by the Legal Bureau prior to execution.
- Income Trust cases have the same rules of timeliness as all other ABD cases. Unless establishing disability is involved, Income Trust cases are subject to the 45-day time limit. Work with someone who is making an effort to do what is required, but do not hold a case pending for them to establish the trust.

NOTE: The recipient cannot be the trustee.

- The Income Trust case cannot be approved any earlier than the effective date of the trust. If the recipient later decides that coverage in a retro period is needed, the document must be amended. If there is not an effective date, then the trust begins the month it is signed and dated.
- It is possible to have an Income Trust during a transfer period. The nursing home will be paid private pay by the client and all the income will be used to pay private pay. This allows the client to be Medicaid-eligible and the penalty period can begin.

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Legal and/or Professional Fees Associated with Qualifying for Medicaid (Continued)

The Division of Medicaid does not impose a limit on the amount of fees an attorney may charge a family; however, there is a limit on the legal fees associated with preparing documents in the spend-down process of an applicant's resources. The limit can also be applied to non-lawyers, but only those whose business it is to advise the elderly and disabled about Medicaid. If it cannot be determined that the person charging the fee has a business or represents a business that does Medicaid planning, the fee will be considered as a transfer. The following instructions will address two (2) separate fees or contracts:

- **Professional Fees Associated with Filing a Medicaid Application**

A capped fee of \$2,000.00 is allowed for professional services incurred for assisting in the Medicaid application process. This maximum amount takes into consideration the estimated time of completing a Medicaid application, appearing with the individual for the in-person interview and assisting with the necessary documentation needed to apply. This fee also includes involvement with any appeal process that may be necessary.

This capped fee is applicable to the applicant and his/her spouse for expenses paid from their funds and does not attempt to set a maximum fee that can be charged to other family members that do not include the applicant or his/her spouse. When evaluating the spend-down of excess resources for an applicant, only \$2,000.00 will be allowed from the applicant's resources. Amounts paid in excess of the capped fee will be treated as a transfer of resources in order to qualify for Medicaid.

NOTE: Conservatorships are a separate legal process and as such, may not be subject to the \$2,000 cap on professional fees. When needed, review conservatorships on a case-by-case basis to determine if fees and associated costs in excess of the capped fee are reasonable.

- **Legal Fees Associated with Preparing a Trust**

A copy of any trust agreement must be submitted for review along with the amount charged for preparing the trust. The attorney must explain how the trust benefits the Medicaid applicant or recipient in order for the Division of Medicaid to make a decision on whether the charge is allowable. It is only the legal fee that will be evaluated based on the benefit the trust provides.

The terms of the trust itself will be evaluated using Medicaid's trust and transfer policy.

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200.01 INCOME FROM INDIVIDUAL INTERESTS IN INDIAN TRUST OR RESTRICTED LANDS

Income which is Excluded

Certain types of Tribal per capita payments and other types of Tribal income are excluded from consideration as income per Public Law 98-64 (the Per Capita Act) and 45 CFR section 233.20(a)(4)(ii)(e). This law and implementing regulations specify that per capita distribution of all funds held in trust by the Secretary of the Interior for members of an Indian Tribe are excluded from consideration as income (and resources) for Medicaid and the Children's Health insurance Program.

In addition, monies received by Indians from the lease or sale of natural resources, and rent or lease income, resulting from exercise of federally-protected rights on excluded Indian property, is not income, but is considered to be an excluded resource in the month that the money is received.

The \$2,000 annual exclusion allowed since January 1, 1994, to monies derived from individual interests in Indian trusts or restricted land is no longer applicable since all such payments are considered a converted asset rather than income.

Income Which is Not Excluded

Also according to Public Law 98-64, local Tribal funds that a Tribe distributes to individuals on a per capita basis, but which have not been held in trust by the Secretary of the Interior (e.g., Tribally managed gaming revenues) are not excluded. Therefore, these types of funds are considered countable income.

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CHART OF NEED STANDARDS AND RESOURCE LIMITS

INSTITUTIONAL INCOME LIMITS		03/01/09	01/01/10	03/01/10	01/01/11
Federal Maximum	Individual (Gross Income)	NA	\$2,022.00	NA	\$2,022.00
Earned Income Disregard		NA	\$293.00	NA	\$293.00

MEDICARE PREMIUMS

Part A	NA	\$461.00	NA	\$450.00
Part B	NA	\$110.50	NA	\$115.40
QI-2 Benefit Amount	NA		NA	

SSI FEDERAL BENEFIT RATES

SSI Individual FBR	Own Household (LA-A)	NA	\$674.00	NA	\$674.00
	Title XIX Facility (:A-D)	NA	\$30.00	NA	\$30.00
SSI Couple FBR	Own Household (LA-A)	NA	\$1,011.00	NA	\$1,011.00
Deeming	Allocation to Each Ineligible Child		\$337.00		\$337.00
		NA		NA	
Presumed Maximum Value (PMV)	Individual	NA	\$244.67	NA	\$244.67
	Couple	NA	\$357.00	NA	\$357.00
SSI RESOURCE LIMITS	Individual	NA	\$2,000.00	NA	\$2,000.00
	Couple	NA	\$3,000.00	NA	\$3,000.00
Liberalized Resource Limits	Individual	NA	\$4,000.00	NA	\$4,000.00
	Couple	NA	\$6,000.00	NA	\$6,000.00

FEDERAL POVERTY LIMITS

Qualified Medicare Beneficiaries (QMB)	Individual	\$903.00	N/A	\$903.00	NA
	Couple	\$1,215.00	N/A	\$1,215.00	NA
Healthier MS Waiver	Individual	\$1,219.00	N/A	\$1,219.00	NA
	Couple	\$1,640.00	N/A	\$1,640.00	NA
Specified Low-Income Medicare Beneficiaries (SLMB)	Individual	\$1,083.00	N/A	\$1,083.00	NA
	Couple	\$1,457.00	N/A	\$1,457.00	NA
Qualifying Individual QI-1 Group	Individual	\$1,219.00	N/A	\$1,219.00	NA
	Couple	\$1,640.00	N/A	\$1,640.00	NA
Qualified Working Disabled Individuals (QWDI)	Individual	\$1,805.00	N/A	\$1,805.00	NA
	Couple	\$2,429.00	N/A	\$2,429.00	NA
Working Disabled (WD) Gross earnings limit	Individual	\$4,579.00	N/A	\$4,579.00	NA
	Couple	\$6,137.00	N/A	\$6,137.00	NA
Working Disabled (WD) Unearned income limit	Individual	\$1,219.00	N/A	\$1,219.00	NA
	Couple	\$1,640.00	N/A	\$1,640.00	NA

SPOUSAL IMPOVERISHMENT MAXIMUMS

	03/01/09	01/01/10	03/01/10	01/01/11
Federal Resource Maximum	NA	\$109,560.00	NA	\$109,560.00
Community Spouse Monthly Maintenance Needs Allowance	NA	\$2,739.00	NA	\$2,739.00
Other Family Members Needs Allowance	NA	\$1,821.25	NA	\$1,821.25